

## Commodity Credit Corporation, USDA

## § 1446.401

purchase under an “immediate buyback.”

(b) *Purchase of quota or additional loan peanuts.* Quota loan peanuts, or additional loan peanuts that were not purchased by the handler under the “immediate buyback” provisions, may be bought for domestic edible use in accordance with this paragraph on an in-grade and in-weight basis.

(1) *In-grade and in-weight purchases.* A handler may purchase loan peanuts, either quota or additional, on an in-grade and in-weight basis for domestic edible use:

(i) Under terms and conditions established by the marketing association and CCC;

(ii) If such peanuts are eligible for domestic edible use; and

(iii) If such peanuts are stored in a warehouse that is operated by such handler.

(2) *Pricing.* Except with respect to “immediate buybacks,” as provided for in this section, the price for peanuts purchased on an in-grade and in-weight basis shall be determined by the marketing association or CCC, as applicable, for the account of CCC, but shall not be less than the applicable carrying charges plus, with respect to each lot of peanuts purchased:

(i) 105 percent of the quota loan value that was or would be applicable to the quantity of loan peanuts in such lot, if paid for not later than December 31 of the marketing year; or

(ii) 107 percent of the quota loan value that was or would be applicable to the quantity of loan peanuts in such lot, if paid for after December 31 of the marketing year.

[56 FR 16230, Apr. 19, 1991, as amended at 57 FR 27145, June 18, 1992; 65 FR 8247, Feb. 18, 2000]

### § 1446.310 Additional peanut support levels.

(a) The national support rate for additional peanuts for the 1996 crop is \$132 per short ton.

(b) The national support rate for additional peanuts for the 1997 crop is \$132 per short ton.

(c) The national support rate for additional peanuts for the 1998 crop is \$175 per short ton.

[62 FR 62693, Nov. 25, 1997, as amended at 64 FR 48942, Sept. 9, 1999]

### § 1446.311 Minimum CCC sales price for certain peanuts.

(a) The minimum CCC sales price for additional peanuts to be sold from the price support loan inventory for export edible use from the 1996 crop is \$400 per short ton.

(b) The minimum CCC sales price for additional peanuts to be sold from the price support loan inventory for export edible use from the 1997 crop is \$400 per short ton.

(c) The minimum CCC sales price for additional peanuts to be sold from the price support loan inventory for export edible use from the 1998 and subsequent crops is \$400 per short ton.

[62 FR 62693, Nov. 25, 1997, as amended at 64 FR 48942, Sept. 9, 1999]

## Subpart D—Handling Contract Additional Peanuts—General Provisions

### § 1446.401 Contracts for additional peanuts for crushing or export.

An approved handler may contract with a producer to deliver additional peanuts for exporting or for crushing. In order to be valid, the contract must meet the eligibility requirements in this section and must be approved by the county committee that serves the county in which the producing farm is located for administrative purposes.

(a) *Contract form and addendum—*(1) *Contract form.* In order to be approved by the county committee, the contract must be completed on Form CCC-1005, Handler Contract With Producers for Purchase of Additional Peanuts for Crushing or Export, or on a form approved by the Executive Vice President, CCC, or designee, which follows the organization of the CCC-1005 and contains as a minimum all of the requirements provided for in paragraph (c)(2) of this section.

(2) *Availability of CCC-1005.* The marketing association shall make available a form CCC-1005 to each approved

handler and to any producer upon request.

(3) *Addenda.* The handler may use an addendum to a contract form if such addendum neither negates nor conflicts with any provision in this part. Any existing addendum to the contract which relates to the marketing of additional peanuts must accompany the contract at the time the contract is filed with the county committee.

(b) *Submitting contracts for approval—*

(1) *Eligible handlers.* Only a handler who has been approved by the marketing association to handle contract additional peanuts may contract with producers to buy additional peanuts for crushing or exportation, or both.

(2) *Producer-handlers.* A person who has been approved as a producer-handler under part 1421 of this title may not contract with himself/herself to purchase contract additional peanuts that he/she may produce.

(3) *Place and time for submitting.* In order to be considered for approval, any contract between a handler and producer for the purchase of additional peanuts shall be completed and submitted:

(i) *Place.* To the county FSA office of the county in which the farm is administratively located.

(ii) *Time.* On or before September 15 of the year in which the crop is produced; except that:

(A) Should September 15 fall on a Saturday or Sunday, or other non-workday the contract must be submitted for approval no later than the last workday immediately preceding the final contracting date.

(B) If the Executive Vice President, CCC, determines that damaging weather such as drought, hail, excessive moisture, freeze, tornado, hurricane or excessive wind, or related condition such as insect infestations, plant diseases, or other deterioration of the peanut crop, including aflatoxin, is expected to have significant national impact on peanut production, the Executive Vice President may extend nationally, by up to 15 days, the final date for submitting contracts for approval. Such announcement shall be made no later than September 5 of the year in which the crop is produced.

(c) *Contract approval.* (1) A contract between a handler and a producer for additional peanuts for crushing or export shall not be approved by the county committee, if otherwise eligible, unless the county committee has been notified by the State Executive Director that the handler has been approved to contract additional peanuts and that such handler has submitted the letter of credit that is required in accordance with the provisions in this part.

(2) In order to be approved, the following information must appear on the contract:

(i) The name and address of the operator;

(ii) The name and address of each producer sharing in the proceeds of the contract additional peanuts;

(iii) The State and County code, and farm number of the farm on which the additional peanuts are to be produced;

(iv) The name, address, and registration number of the handler;

(v) The pounds of Segregation 1, Segregation 2, and/or Segregation 3 peanuts that are contracted;

(vi) The final contract price to be paid by the handler and shown as a set percentage of the loan rate for quota peanuts of the type indicated on the contract; except that such final contract price shall not be less than the additional loan rate for the type of peanut indicated on the contract. A contract or an addendum to a contract that provides for a conditional supplemental payment to the producer will not be considered to negate the final contract price only if the supplemental payment to be made is expressed in a manner that a third party may determine the amount of the supplemental payment without a need for additional negotiations;

(vii) A disclosure by the producer of any liens or encumbrances on the peanuts;

(viii) The signature of the farm operator;

(ix) The signature of each person having an interest as a producer in the contract additional peanuts that are produced on the farm;

(x) The signature of the handler or the authorized agent of the handler; and

(xi) A prohibition against changing the price.

(3) The county committee, or a person designated in writing by the county committee, shall approve each form CCC-1005 that conforms with the provisions in this section.

[56 FR 16230, Apr. 19, 1991, as amended at 56 FR 38329, Aug. 13, 1991; 61 FR 37624, July 18, 1996]

**§ 1446.402 Approval as handler of contract additional peanuts.**

(a) *General.* By June 15 preceding the beginning of the marketing year in which such additional peanuts will be acquired, any handler who plans to acquire contract additional peanuts in accordance with this part for crushing or for exporting must:

(1) *Application.* File an application with each marketing association that serves the area in which such handler plans to acquire contract additional peanuts. Such application:

(i) *Form.* Must be on a form or in a format provided by the marketing association.

(ii) *Method of supervision.* Must indicate the method of supervision, physical or nonphysical, selected by the handler for purposes of accounting for the disposition of any contract additional peanuts acquired by such handler.

(2) *Evidence of adequate assets and adequate facilities.* Provide evidence that is acceptable to the marketing association and CCC that such handler has:

(i) *Assets.* Adequate assets to assure compliance with the provisions in this part with respect to such handler's obligation to crush or export contract additional peanuts acquired by such handler; and

(ii) *Facilities.* Adequate facilities to handle the acquisition and disposition of any contract additional peanuts acquired by such handler.

(3) *Letter of credit for prior crop years.* Establish an irrevocable letter of credit, or increase any existing letter of credit applicable for a previous crop year, in an amount necessary to cover any outstanding marketing penalties on peanuts produced in such crop year which are still under administrative appeal or are unpaid. This requirement

is in addition to any letter of credit requirement for the current year.

(b) *Approval.* The marketing association, acting on behalf of CCC, shall approve, in accordance with this part, each application that is timely filed in accordance with this section, or is filed by such extended time as may be approved by the Executive Vice President, CCC, provided that in either case, the applicant:

(1) Has selected a method of supervision;

(2) Has a U.S. address;

(3) Has provided evidence of adequate assets and adequate facilities to assure compliance with the provisions in this part with respect to the disposition of contract additional peanuts; and

(4) Has complied with the requirements of paragraph (a)(3) of this section.

(c) *Rescission of approval.* Unless the Executive Vice President, CCC, shall otherwise agree in writing, a handler's previous approval to contract for the purchase of additional peanuts for exporting or crushing and to receive and handle such peanuts shall be considered to be rescinded upon such handler's use of facilities, other than those on which the approval was based, to receive, store, process, or ship contract additional peanuts. However, a rescission will not apply if substituted facilities are approved by the association, in accordance with instructions issued by CCC, when the handler can show, as determined by the association subject to review by the Executive Vice President, that the original facilities are no longer available for use due to circumstances beyond the handler's control such as, but not limited to, fire, flood, wind damage, or mechanical failure. In the event of rescission of a handler's approval, any purchases of peanuts from producers by such handler subsequent to the rescission will be considered as purchases of quota peanuts and will subject the handlers and producers to penalties, as prescribed by this part and in 7 CFR part 729 for marketing excess quota peanuts unless such peanuts are recorded on the producer's marketing card as a marketing of quota peanuts.